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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 15 April 1997 from the Ambassador of the Niger to Belgium, member of the Islamic Conference Contact Group, addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit to you the memorandum on the situation in Jammu and Kashmir submitted by the true representatives of the people of Kashmir at the meeting of the Islamic Conference Contact Group on Jammu and Kashmir held at the United Nations Office in Geneva on 10 April 1997.

I should be grateful if you would kindly have it circulated* as an official document of the fifty-third session of the Commission on Human Rights, under agenda item 10.

(Signed): Housseini ABDOU-SALEYE
Ambassador Extraordinary and Plenipotentiary

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* The annex is reproduced as received, in the language of submission only.

MEMORANDUM PRESENTED BY TRUE REPRESENTATIVES OF THE KASHMIRI PEOPLE TO THE MEETING OF THE OIC CONTACT GROUP ON JAMMU AND KASHMIR HELD IN GENEVA ON 10 APRIL 1997.

The Kashmiri representatives,

Recalling the relevant resolutions of the United Nations Security Council upholding the right to self-determination of the people of Jammu and Kashmir.

Welcoming the historic Special Declaration of the Extraordinary Session of the Islamic Summit Conference on Jammu and Kashmir, adopted on 23 March 1997.

Expressing their deep gratitude to the Islamic Sovereigns, Heads of State and Government for:

a) their commitment to promote a just and peaceful solution to the Jammu and Kashmir dispute in accordance with the the United Nations resolutions;

b) their support to the fundamental human rights of the Kashmiri people including their right to self-determination;

c) their condemnation of the oppression and massive violations of the human rights of the Kashmiri people; and

d) their support for the efforts of the Government of Pakistan to resolve, through a substantive and meaningful dialogue, the Jammu and Kashmir dispute which is the basic cause of the tensions between India and Pakistan.

Expressing satisfaction that the True Representatives of Jammu and Kashmir were enabled to address the OIC Summit Conference for the first time in Islamabad;

Regretting that a false impression is being created by the Indian Government that normalisation has taken place in IHK, although the brutal repression of the struggle of the Kashmiris for their right to self-determination continues unabated;

Affirming that any agreement on Kashmir, without the association of the Kashmiris or reflection of their aspirations, will not be credible or durable;

Taking note of the talks held between Pakistan and India in New Delhi, from 28 to 31 March 1997, in which the Jammu and Kashmir dispute was the core issue;

Taking note of the assurances given by the Government of Pakistan that the aspirations of the Kashmiri people constitute the primary basis for the settlement of the Jammu and Kashmir dispute;

Welcomes the dialogue between APHC and the Foreign Secretary of Pakistan, during the India-Pakistan talks in New Delhi, which enabled the APHC to convey its position on the issues concerned;

Affirming the rejection by the APHC of any separate negotiations with the Indian authorities regarding the Jammu and Kashmir dispute;

Recalling that the Security Council has clearly enunciated that, on the basis of the agreement concluded between India and Pakistan, "the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations",

Also recalling that the United Nations Security Council had declared that the creation of a Constituent Assembly or holding of any elections in Jammu and Kashmir by the Indian Government will not be a substitute for a free and impartial plebiscite mandated by the Security Council to determine the will of the people of Jammu and Kashmir;

Condemning the continued presence of 700,000 troops in Indian-held Kashmir and their brutalisation of the Kashmiri people;

Deeply alarmed by the sharp intensification of Indian repression of the Kashmiri people, especially the induction of additional troops, the use of renegades and mercenaries, armed, financed and trained by India, for terrorizing and intimidating the Kashmiri people;

Stressing the need for taking necessary steps for promoting intra-Kashmir dialogue;

Declare that any elections organized by the Indian Government will never constitute a substitute for the plebiscite pledged by the United Nations to the people of Jammu and Kashmir who have never accepted the sovereignty of India over their territory;

Reject the fraudulent elections imposed by the Indian Government on the people of Jammu and Kashmir;

Reject the installation of the puppet administration of Farooq Abdullah in Indian-held Kashmir by the Indian Government;

Condemn the continuing violations of human rights in Jammu and Kashmir which have resulted in the death of over 50,000 Kashmiri men, women and children, the rape of thousands of Kashmiri women and unlawful detention of tens of thousands of Kashmiris, including political activists and leaders;

Also condemn the genocide, massacres, extra-judicial killings, reprisal killings, arbitrary detention, torture, the use of rape as an instrument of suppression, burning of houses, villages and townships, and destruction of holy places, committed by the Indian Government, through its military and paramilitary personnel, renegades and mercenaries in Jammu and Kashmir during the last seven years;

Also condemn the abduction of young girls and their faced marriages in

interrogation centres in IHK;

Express deep concern at the continuing campaign of harassment, intimidation and repression against the leaders of the All Parties Hurriyat Conference which has been further intensified in recent months to silence their opposition to the Indian policies of coercion and fraud in Indian-held Kashmir;

Condemn the frequent arbitrary detention, torture and inhuman and degrading treatment of the leaders of the All Parties Hurriyet Conference;

Urge that all violations of human rights in Indian-held Kashmir be stopped forthwith to create an environment for a negotiated settlement of the Jammu and Kashmir based on the realisation of the right to self-determination of the people of Jammu and Kashmir;

Endorse the on-going efforts of the Government of Pakistan to seek a just and peaceful solution to the Kashmir issue;

Resolve that:

(a) the people of Jammu and Kashmir will not accept any elections or similar exercises held under Indian occupation with the aim of suppressing their right to self-determination;

(b) the people of Jammu and Kashmir shall continue their struggle for the realization of their right to self-determination promised to them by the United Nations;

(c) the will of the people of Jammu and Kashmir expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the UN is the sole basis for the final disposition of the Jammu and Kashmir dispute;

(d) the aspirations of the Kashmiri people constitute the primary basis for the settlement of the Jammu and Kashmir dispute.

Call on:

(a) the OIC Contact Group on Kashmir to express its serious concern to India at the sham elections in 1996 in Indian-held Kashmir, which contravene Resolutions 91 (1951) and 122 (1957) of the UN Security Council. These resolutions have clearly affirmed that "any action that (the Indian Government) may have taken, or might attempt to take to determine the future shape and affiliation (of Jammu and Kashmir) would not constitute a disposition of the State" in terms of these resolutions;

(b) the OIC Contact Group on Kashmir to impress upon the Indian Government to desist from exacerbating tensions in Jammu and Kashmir and between India and Pakistan;

(c) the Organization of the Islamic Conference to renew to the Government of India its offer of sending its fact finding mission to Jammu and Kashmir;

(d) the Organization of the Islamic Conference to renew to the Government of India its offer of sending its Good Offices mission to Jammu and Kashmir;

(e) the United Nations to ask India to withdraw its army of occupation from Jammu and Kashmir and to hold a plebiscite in Jammu and Kashmir, in a time-bound framework, in accordance with the U.N. Security Council resolutions;

(f) the U.N. Secretary-General to initiate a process of mediation to pave the way for the holding of a plebiscite in Jammu and Kashmir as laid down by the United Nations Security Council;

(g) the United Nations to send a good will mission to India, Pakistan and Jammu and Kashmir to facilitate resolution of the conflict.

(h) the United Nations to appoint a Special Representative on Jammu and Kashmir;

(i) the United Nations Security Council to expand the United Nations Military Observer Group in India and Pakistan (UNMOGIP) and give it the additional mandate to monitor human rights situation in Indian-held Kashmir and report on it;

(j) the United Nations to declare the leaders of the All Parties Hurriyat Conference (APHC) and Kashmiri human rights activists as "internationally protected persons".

(k) the United Nations to guarantee and protect the right to travel of the Kashmiri people;

(l) the United Nations Human Rights Commission to appoint a Special Rapporteur on Jammu and Kashmir;

(m) the United Nations Human Rights Commission to mandate the existing Special Rapporteurs on Torture, Extrajudicial, Summary or Arbitrary Executions, Violence against Women, Religious Intolerance, Independences of Judges and Lawyers to focus on the human rights crisis in Indian-held Kashmir;

(n) the United Nations High Commissioner for Refugees to designate Kashmiri people as "persons of concern" or internal refugees so that they could receive humanitarian assistance through the United Nations;

(o) the ICRC to intensify its humanitarian efforts in Indian-held Kashmir

on a sustained and comprehensive basis;

(p) the international community to exert influence with India to provide full access to international human rights organizations to visit Jammu and Kashmir;

(q) the Government of Pakistan to continue its efforts for a peaceful solution of the Kashmir issue, keeping in view the aspirations of the Kashmiri people, through all possible means, including a substantive and meaningful dialogue with India.

Note with regret that India has persisted in its inflexible position on the Jammu and Kashmir dispute during the recent talks between the Foreign Secretaries of India and Pakistan;

Appeal to all peace-loving people and nations of the world to help and support the people of Jammu and Kashmir in their struggle for the realization of their right to self-determination promised to them under the UN Security Council resolutions.